

NEWS RELEASE



OFFICE OF THE UNITED STATES ATTORNEY SOUTHERN DISTRICT OF CALIFORNIA

San Diego, California

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For Immediate Release

NEWS RELEASE SUMMARY - May 31, 2005

United States Attorney Carol C. Lam announced that Antonio ("Tony") Simon was sentenced today to serve 24 months in custody by U.S. District Judge Jeffrey T. Miller in federal district court in San Diego on 12 counts of bankruptcy fraud and eight counts of knowing disregard of bankruptcy rules and procedure. Judge Miller also imposed a three-year period of supervised release, a restitution order of \$23,470 and a special assessment of \$1,400. Simon was convicted of these charges on January 21, 2005, after a two-week jury trial. Simon was remanded into custody after the jury's verdict and will remain in custody to serve out his sentence.

Simon, prior to his conviction, was charged with defrauding homeowners and their creditors in a complex scheme which used bankruptcy law protections against foreclosure sales in a corrupt manner. The evidence at trial proved that Simon found and solicited homeowners in severe financial debt who were on the verge of losing their home through a foreclosure sale. The evidence further showed that Simon made a number of false representations and promises to the homeowners to get them to pay him a monthly fee for his purported services. Simon falsely claimed that he would (1) save the property from foreclosure by legal

means, (2) contact lenders to renegotiate the mortgage, (3) assist in arranging refinancing, and (4) take a portion of the monthly fee he received from the homeowners for his services, to be paid to the lender and applied to the mortgage, which he claimed would keep foreclosure from occurring.

Instead, the evidence at trial proved that Simon merely kept the homeowners' money, made no contact with the homeowners' creditors, and did not arrange refinancing, nor use the money to pay down the mortgage to prevent foreclosure. Rather, Simon prepared and caused to be prepared “bare bones” federal bankruptcy petitions for the homeowners to sign, which declared either Chapter 7 or Chapter 13 bankruptcy in an effort to use bankruptcy law protections against foreclosure proceedings. Simon and the homeowner did nothing further to pursue the bankruptcy case.

Bankruptcy law provides for an automatic stay to stop foreclosure proceedings and sales as soon as bankruptcy is filed by the homeowner. The law enables the homeowner to stay in the home as long as the bankruptcy is proceeding or until the foreclosure sale is otherwise ordered by a bankruptcy court judge. Bankruptcy law also provides that a schedule of assets and liabilities and a statement of financial affairs must be filed with the bankruptcy court by the bankruptcy filer within 15 days of the filing of the petition or the case will be dismissed.

The evidence at trial showed that these bankruptcy petitions, as directed, prepared or caused to be prepared by defendant Simon, were not supported by the schedule of assets and liabilities and a statement of financial affairs that were required to be filed. The cases ultimately were dismissed by the bankruptcy court. The evidence at trial proved that the defendant’s response to the dismissals was to direct the homeowner to file successive bankruptcy petitions, but without the required supporting documents. The evidence at trial also proved that bankruptcy petitions were used by Simon with no intent to pursue bankruptcy but only to use bankruptcy laws protecting against foreclosure to defraud creditors, thus enabling Simon to continue to collect the monthly payments being made by the homeowners under false pretenses.

Further, the evidence at trial showed that, in an effort to continue his scheme for an extended period of time and thus collect additional money, defendant Simon used and caused relatives and persons unknown to homeowners, who the defendant arranged to receive portions of the homeowners' property through property

deed transfers, to file bankruptcy petitions with no intent to pursue bankruptcy but which were used solely to extend the bankruptcy law protections against foreclosure.

At the sentencing hearing, Judge Miller called Simon an “economic predator” who “set up his victims emotionally for his financial kill.” Judge Miller further described Simon’s plan as a “shell game where the pea was the victims’ homes and the shells were the bankruptcy court and bankruptcy petitions.”

Codefendant Raul Allen was sentenced to 10 months in custody by Judge Miller on May 23, 2005. Allen pled guilty to the charge of bankruptcy fraud on July 2, 2004. Allen was also given a three-year period of supervised release, a restitution order of \$23,470, and a special assessment of \$100.

DEFENDANTS

Antonio Rios Simon

Raul Charles Allen

SUMMARY OF CHARGES

Bankruptcy Fraud, 18 U.S.C. § 157 -- Five years’ imprisonment and/or a \$250,000 fine per count

Knowing Disregard of Bankruptcy Laws, 18 U.S.C. § 156 -- One year imprisonment and/or a \$100,000 fine per count

INVESTIGATING AGENCY

Federal Bureau of Investigation